

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF VIRGINIA  
3                   Richmond Division.

4  
5           United States of America,

6   plaintiff,

7                   versus

3:10 CR 151

8           Faye W. Kriete,

9   defendant

10  
11  
12  
13                   before: Honorable Robert E. Payne  
14                   Senior United States District Court Judge

15  
16   October 1, 2010  
17   Richmond, Virginia

18  
19   GILBERT F. HALASZ RMR  
20   Official Court Reporter  
21   U. S. Courthouse  
22   701 East Broad Street  
23   Richmond, VA 23219  
24   (804) 916-2248  
25   APPEARANCES

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MICHAEL C. Moore, ESQ.,  
ASSISTANT UNITED STATES ATTORNEY  
FOR THE UNITED STATES  
  
CHRISTOPHER COLLINS, ESQ.  
FOR THE DEFENDANT  
THE DEFENDANT  
IN HER OWN BEHALF

1 THE CLERK: Case number 3:10 CR 151.

2 The United States of America versus Faye W.

3 Kriete.

4 United States is represented by Michael Moore.

5 The defendant is represented by Christopher

6 Collins.

7 Are counsel ready to proceed?

8 MR. MOORE: United States is ready.

9 MR. COLLINS: Mrs. Kriete is ready, Judge.

10 THE COURT: All right, sir. Excuse me.

11 MR. MOORE: Your Honor, Ms Kriete is before The

12 Court for her sentencing following her June 10

13 guilty plea to a criminal information charging her

14 with bank fraud in violation of title 18 United

15 States Code section 1344. The maximum penalty for

16 that offense is 30 years of imprisonment, five year

17 period of supervised release, and a one million

18 dollar fine, and a hundred dollar special

19 assessment.

20 The advisory guideline range as calculated by

21 the probation office is four to ten months and the

22 defendant falls into zone B of the guideline table.

23 There are no objections to the presentence report.

24 The government is also aware that a victim in this

25 matter, Neal Kriete, has filed with The Court a

1 victim impact statement claiming various alleged  
2 items of restitution. The government's position,  
3 having reviewed title 18 United States Code section  
4 3663 (a), the mandatory victim restitution act, is  
5 those items are not recoverable as restitution in  
6 this case: I am also advised Mr. Kriete is here  
7 represented by counsel, and he wishes to exercise  
8 his right to allocate under title 18 United States  
9 Code section 3771 (a) 4.

10 THE COURT: All right. Stand up, Ms Kriete.  
11 Have you read the presentence report?

12 THE DEFENDANT: Yes, I have, Your Honor.

13 THE COURT: Have you been over it with your  
14 lawyer?

15 THE DEFENDANT: Yes, I have.

16 THE COURT: And are there any objections to it?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: All right. You may be seated.

19 MR. COLLINS: Judge, that is sort of an iffy  
20 no.

21 THE COURT: What?

22 MR. COLLINS: Sort of an iffy no she gave you  
23 on my behalf. I did not file an objection to the  
24 victim impact statement because I don't think I can.  
25 I think The Court is --

1           THE COURT: No, you can't. The victim is  
2 entitled to.

3           MR. COLLINS: We would dispute some of the  
4 rantings contained in it. I was --

5           THE COURT: Well, that is not part of the  
6 presentence report.

7           MR. COLLINS: I understand.

8           THE COURT: There are no objections to the  
9 prior?

10          MR. COLLINS: Not to the presentence report, of  
11 course. Thank you, Judge.

12          THE COURT: All right.

13          The presentence report is hereby accepted,  
14 adopted, filed as tendered. It will be placed in  
15 the record. It will be under seal. Well, I guess  
16 it is attached to the presentence report, isn't it?

17          MR. COLLINS: It is now. When I first got it  
18 it was not.

19          THE COURT: Is it part of the presentence  
20 report or not?

21          PROBATION OFFICER: Submitted as part of the  
22 presentence report, Your Honor.

23          THE COURT: All right.

24          Well, except for the statement, impact  
25 statement of Neal Richard Kriete, insofar as the

1 relief that is requested is concerned, the  
2 presentence report will be accepted, adopted, filed  
3 as tendered. The Court will review the presentence  
4 report. I mean has reviewed the impact statement.  
5 But there is nothing I can do about what is  
6 contained in there now.

7 MR. COLLINS: Thank you.

8 THE COURT: That is a matter for other  
9 litigation, I believe. I can't figure out how under  
10 the law that would be recoverable as restitution in  
11 this case. That does not mean that he may not have  
12 a civil action against her for actions. All right.

13 Well, do you have any evidence other than  
14 Mr. Kriete's statement?

15 MR. MOORE: I do not, Your Honor.

16 THE COURT: All right.

17 Does Mr. Kriete wish to testify? I have the  
18 impact statement, and I have read it.

19 Is Mr. Kriete here?

20 MR. KREITE: Yes, sir.

21 THE COURT: Do you want him to testify?

22 MR. KREITE: Yes, sir.

23 MR. MOORE: He is going to allocute.

24 THE COURT: Well, you can speak on your own  
25 behalf. You don't have to be sworn.

1           MR. KREITE: Your Honor, as a result of the  
2 crime that was committed against me that we are  
3 dealing today, it destroyed my credit rating. I  
4 have been denied two loans. I have to use my  
5 retirement savings to pay attorneys and legal fees.  
6 I have had to sell assets that I didn't really want  
7 to sell to prevent a home from going into  
8 foreclosure, and a second mortgage to keep both of  
9 these current until the home was sold.

10           And after the sale of the house, with the  
11 current housing market like it is, a substantial  
12 loss on the sale of the property. My retirement  
13 savings is now gone. I have \$25,000 in legal  
14 expenses, and I have lost just about everything I  
15 have worked for my entire life.

16           There is much more that I could say, but I want  
17 to try to limit it to the main things that -- the  
18 main topics of the impact that this has caused me.

19           The emotional stress and strain that I have  
20 lived under for the last three and a half years is  
21 just mind boggling. I am seeing a psychiatrist. I  
22 have talked to numerous attorneys. And you I have  
23 been pursuing justice now for three and a half years  
24 in this matter.

25           It is much more complicated than this one

1 charge. I do plan on pursuing other charges  
2 whenever I can get an investigation. I would like  
3 to ask The Court to grant me that investigation.

4 THE COURT: I can't really order an  
5 investigation.

6 MR. KREITE: I have five other felonies that  
7 need to be investigated.

8 THE COURT: My suggestion is you present all  
9 you have to the --

10 What agency is investigating this crime,  
11 Mr. Moore?

12 MR. MOORE: Your Honor, the Hanover County  
13 Sheriff's Department has been involved with most of  
14 the other collateral matters that Mr. Kriete  
15 references.

16 THE COURT: Well, you submit your claim, you  
17 direct it to the Federal Bureau of Investigation and  
18 to the United States Attorney for the Eastern  
19 District of Virginia, and to the state authorities  
20 and they have the power to investigate. And they  
21 can do, or bring charges. The Court doesn't have  
22 the power to do that, and can't bring charges on its  
23 own right.

24 MR. KREITE: I understand, Your Honor.

25 THE COURT: I do understand exactly what you



1 are saying.

2 MR. KREITE: Your Honor, I have not been able  
3 to get the investigation that I have asked for. I  
4 have presented the evidence. I have a folder full  
5 of evidence. There was an arrest made in March of  
6 2008 in Hanover County for check larceny. And that  
7 was quickly dismissed. I have a folder full of bad  
8 checks, some written to the mortgage company, some  
9 of them written to the second mortgage company, some  
10 of them written to the credit --

11 THE COURT: Bad checks or what?

12 MR. KREITE: Worthless checks written on a  
13 closed or frozen account as payment on the first and  
14 second mortgage, as well as the credit card issue  
15 that we are dealing with today. There was two bad  
16 checks written to Chase Manhattan Bank. I have  
17 copies of all of this information. I also --

18 THE COURT: Well, did they come after you to  
19 collect on the check?

20 MR. KREITE: Yes, sir. I am having to deal  
21 with Chase Manhattan on my own. They are not  
22 willing to press charges, apparently, or do not care  
23 to get involved in this case, but they should be.

24 THE COURT: I am going to recommend that the  
25 United States Attorney, Mr. McBride, take a look at

1     this case. This is an egregious fraud. It is a  
2     terrible situation. And just from what I see, there  
3     appear to be more crimes involved here than is  
4     reflected in this particular case.

5             MR. KREITE: Yes, sir.

6             THE COURT: Mr. Moore, you take this case and  
7     you take -- you go talk to Mr. McBride about it,  
8     because there is a whole lot more here than you all  
9     have brought.

10            MR. KREITE: Yes, sir.

11            THE COURT: I believe that is true. I don't  
12     know all of the evidence. I am just saying that  
13     there is a whole lot from his evidence. What he  
14     presented, there is a whole lot more here than just  
15     this case. I don't know what the other factors are.  
16     I don't have a full investigation, so I can't make a  
17     judgment as to whether or not there is any charges  
18     to be brought in this situation. I can't do  
19     anything with respect to the state. But I will tell  
20     you if I were you I would go to the Commonwealth's  
21     Attorney. I would go to my representative. And I  
22     would go pursue this to the hilt.

23            THE DEFENDANT: Your Honor.

24            THE COURT: And we would get to see how to sue  
25     her civilly. And if you have criminal or credit

1 issues that are created by her, I would go see a law  
2 firm that specializes in credit law, such as  
3 Mr. Bennett. I think he is called Consumer  
4 Litigation Associates. And tell them what the  
5 situation is. And he can help you deal with the  
6 credit card companies and with the other people.

7 I think you have been mightily wronged, but the  
8 place to redress the wrongs is not in this case,  
9 unfortunately. But I understand your situation.

10 MR. KREITE: After three and a half years of  
11 pursuing justice, and trying to get this  
12 investigation that I still need, I have not been  
13 able to get that from the jurisdictions where the  
14 crimes were committed. I have been ignored. I have  
15 been refused. I have been violated. My phone calls  
16 have not been returned. And I have been had  
17 absolutely no response from the sheriff's department  
18 in the jurisdiction, which is Hanover County.

19 THE COURT: Go to the Commonwealth's Attorney.

20 MR. KREITE: I have already been there. He  
21 told me this crime we are dealing with today was a  
22 civil matter, and he was not going to deal with it.  
23 The --

24 THE COURT: It clearly is a criminal matter.

25 MR. KREITE: Postal inspectors concluded his

1 investigation. And found identify theft, number  
2 one; credit card fraud, number two; and a postal  
3 crime has been committed as well, which is why I now  
4 have no recourse against the credit card company.  
5 The crime was not reported within 30 days, is what I  
6 have been told. And they have no liability now for  
7 that reason. That is due to the postal crime that  
8 was committed where the billing statements were  
9 transferred out of my hands.

10 THE COURT: Do you have proof they found that  
11 crime?

12 MR. KREITE: Yes, sir.

13 THE COURT: No, I mean proof they found that it  
14 was a crime, postal fraud?

15 MR. KREITE: That is what I was told by  
16 Mr. O'Donnell. His investigation turned up three  
17 counts of crime, not one. He took it to the Hanover  
18 Commonwealth's Attorney for prosecution. He tried  
19 to get the charges reduced. And when Mr. O'Donnell  
20 refused to do that, he refused to prosecute the  
21 case. I told him he was wasting his time going to  
22 Hanover, but he said he had to go there first  
23 because that is the jurisdiction where the crimes  
24 were committed. He told me he was now going to the  
25 U.S. Attorney, which he did. And he got a

1 prosecution on one count, not three. Identity  
2 theft, credit card fraud, and postal fraud. That is  
3 why the U.S. Postal Inspection Service is involved.  
4 And I commend them for a job well done.

5 THE COURT: All right.

6 Anything else, sir?

7 MR. KREITE: Well, there is a lot more, Your  
8 Honor, but I guess we will have to deal with the  
9 rest of it at another time in another court. But I  
10 need a police investigation of the rest of this  
11 case.

12 THE COURT: All right.

13 MR. KREITE: Thank you.

14 THE COURT: Thank you.

15 MR. MOORE: Your Honor, we will continue to  
16 communicate with the local authorities, and I will  
17 bring your concerns --

18 THE COURT: I am rather astounded by what I  
19 have read, and what hasn't happened in Hanover  
20 County. I don't know who is assessing what in the  
21 way of the law out there, but it is truly bizarre if  
22 what he says is true about the facts, and in what he  
23 says the response is. I don't know if that is true.  
24 But this -- she is a one-woman crime spree is what  
25 she is. That is exactly what her situation is. And

1 the damage that she has caused him is enormous.

2 I will tell you that I am giving notice now  
3 that I am considering a sentence above the advisory  
4 guidelines, a variant sentence, and it will be a  
5 significant sentence. If you would like more time  
6 to prepare and explain why either one of you don't  
7 think that is appropriate, or do think it is  
8 appropriate, I will be glad to give you time to  
9 prepare. And we will continue the sentencing. You  
10 all can brief the issue. It will be a significant,  
11 sentence perhaps in the neighborhood of five years  
12 in prison is warranted.

13 MR. COLLINS: Judge, I would certainly like  
14 more time, and like to call witnesses.

15 THE COURT: Okay. You can.

16 MR. COLLINS: Mr. Kriete is right, they are not  
17 prosecuting because they don't believe half of what  
18 he says.

19 THE COURT: I am just talking about what she  
20 did here, what can be proved.

21 MR. COLLINS: Well, I don't know that anything  
22 is proven by what he says.

23 THE COURT: Talking about what she did in here.

24 MR. COLLINS: All of those bills are proved  
25 during a pretty acrimonious divorce. Not her fault

1     that she is divorced. They are getting divorced.  
2     This is a guy who had a protective order put against  
3     him because he put a snake in her car. His  
4     credibility with the police is less than zero. The  
5     last time he sent them out to her they apologized to  
6     her.

7           THE COURT: Well, the police found, postal  
8     inspector found several charges, according to him, I  
9     don't know whether he did or he didn't.

10          MR. COLLINS: Concerning this particular event,  
11     there could have been several charges brought, and  
12     we worked it out to one charge.

13          THE COURT: You did, but you don't have a deal  
14     on the sentence.

15          MR. COLLINS: Correct.

16          THE COURT: Just what I see here in this case  
17     is unbelievable.

18          MR. COLLINS: I think it is if The Court takes  
19     that at face value.

20          THE COURT: I take the statement as facts at  
21     face value, and the plea agreement at face value.

22          MR. COLLINS: You can do that.

23          THE COURT: I am entitled to do that. I can't  
24     decide whether what he says is true or not. What I  
25     said about what is going on means that he should go

1 get some recourse somewhere else and have it looked  
2 into. And maybe he -- I am sure, as in every  
3 divorce, there is more than one person involved.  
4 And there is more than one person who is at fault.  
5 That is inevitable. But this is, it looks to me  
6 like this is a very substantial fraud that she  
7 committed here. It is very deliberate. And very  
8 extensive. I don't think ten months is an  
9 appropriate sentence in the case.

10 MR. COLLINS: Well, I would like --

11 THE COURT: It could be more. Whether five  
12 years or two years, or one year, I don't know. But  
13 I believe it needs to be more. I am considering an  
14 upward variance. I don't know how much I would  
15 impose. I haven't -- I want to hear from all of you  
16 on that. So would you get my book, please?

17 I don't know what is going on behind the  
18 scenes, but I can tell you this. There is enough  
19 there to warrant a look see. And the mere fact that  
20 during the course of an investigation he did, or a  
21 divorce, did something that warranted a protective  
22 order is no excuse for the commission of frauds. If  
23 the police think it is, then they are wrong. What  
24 they need to do is to look at the substance of the  
25 fraud, not to look at and the evidence that relates



1 to that. Not to decide because this guy acted like  
2 a jerk on one occasion or two occasions that he  
3 wasn't defrauded. I don't know whether that is what  
4 has happened or not. That is what he says has  
5 happened. I don't know that. But if it has  
6 happened, it is not the way to run an operation and  
7 look into something. You have got to actively look  
8 at the nature of the alleged offense. And she  
9 already has committed enough crime and confessed to  
10 enough crime to leave a reasonable law enforcement  
11 officer to believe that one ought to look into these  
12 matters closely, and not be skewed by what happened  
13 in a divorce.

14 MR. COLLINS: I am not suggesting that the  
15 police were skewed by what happened to the divorce.  
16 I think they looked into everything and rejected it.

17 THE COURT: Doesn't sound to me like they did.

18 MR. COLLINS: Well --

19 THE COURT: In fact, if what I just heard is  
20 right, the federal authorities produced evidence of  
21 a lot of crime. That let -- and that the state  
22 people wouldn't even look at it. Somebody needs  
23 to -- I don't know what is going on out there, but  
24 that is not the way to run a railroad. I don't know  
25 what the answer to all this is.

1           How long do you want to file your papers on  
2   whether a variant ought to be granted? You can have  
3   whatever reasonable time you like, and I will set it  
4   on a schedule and re-schedule the sentencing, and  
5   give the government a chance to file, too.

6           How long do you want to file, Mr. Collins?

7           MR. COLLINS: At least 30 days, Judge. Say  
8   November 1<sup>st</sup>?

9           THE COURT: All right.

10          MR. MOORE: I can file a response within ten  
11   days thereafter, Your Honor.

12          THE COURT: All right.

13          You file your paper on November 1st. You file  
14   yours on November 10. And both of you send copies  
15   to Mr. Kriete.

16          MR. MOORE: He is represented by counsel.

17          THE COURT: You send them to his counsel then.

18          MR. MOORE: Yes, Your Honor. And then --

19          THE COURT: I have a sentencing December 10 at  
20   1:30. Can we do that?

21          MR. COLLINS: That is fine.

22          MR. MOORE: That is fine, Your Honor.

23          THE COURT: All right.

24          Thank you very much.

25          You all may be excused.

1 MR. COLLINS: Thank you, Judge.

2

3 THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT.

4

5 Gilbert Frank Halasz, RMR

6 Official Court Reporter

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1           End end end end end end end end end end end  
2   end end end:

3           . . .

4                   IN THE UNITED STATES DISTRICT COURT  
5                   FOR THE EASTERN DISTRICT OF VIRGINIA  
6                               Richmond Division

7           K The United States of America, plaintiff.

8           Versus 3:09 CR 454-01.

9           Dwight an dry forward, defendant.

10                   before:   Honorable Robert E. pain  
11                   senior United States District Court judge  
12           October 1, 2010 sent S-PBT Richmond, Virginia

13                               GILBERT F. HALASZ RMR  
14                               Official Court Reporter  
15                               U. S. Courthouse  
16                               701 East Broad Street  
17                               Richmond, VA 23219  
18                               (804) 916-2248

19           Appearanceses

20           CHARLES A. KWAUGLY AT TO, ESQ. ASSISTANT UNITED  
21                   STATES ATTORNEY FOR THE UNITED STATES  
22           REGINALD M. BARELY, ESQ. FOR THE DEFENDANT.

23           THE DEFENDANT IN HIS OWN BEHALF:

24           THE CLERK:   CLERK.

25           MR. MOORE:   QUIGLEY AT TO.

1 MR. COLLINS: BARELY.

2 THE COURT: JUDGE.

3 THE COURT: JUDGE. DEFENDANT DIFFERENT THE  
4 DEFENDANT.

5 MR. COLLINS: APOLOGIZE I WAYS RIGHT THERE IN  
6 THE CONFERENCE ROOM TPWHR\*EF MY EYE AM STR-RS SENIOR  
7 RE AFTER THERE MORNING, TOO.

8 THE COURT: WELL YOU ARE ACTUALLY NOT DUE HERE  
9 FOR INFORMATION COUPLE MINUTES.

10 MR. COLLINS: Thank you sir.

11 THE COURT: I was early.

12 THE CLERK: Case number 3:09 CR 4545 United  
13 States of America versus Dwight an dry Ford. United  
14 States is represented by Mr. PHAOEUG EL Moore and  
15 Charles KWAUG he at to the defendant is represented  
16 by Reginald barely. Are counsel ready to proceed?

17 MR. MOORE: We are Your Honor.

18 MR. COLLINS: Defendant is, sir.

19 THE COURT: All right -FRPLT.

20 MR. MOORE: I am KWEUG he at to (.

21 MR. MOORE: Good morning Your Honor, we are  
22 here this morning for a review of the detention  
23 order entered Eastern District of New York against  
24 Mr. Forward. The government would call KREUS hard  
25 man, first.

1 KREUS HARD MAN

2 WAS SWORN AND TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MR. MOORE:

5 Q Could you please state your name for the  
6 record?

7 A Christopher hard man C. H. R. I. S. T. O. P. H.  
8 E. R. H. A. R. D. E. M. A. N.

9 Q What do you do Mr. Hard man?

10 A Special agent with the U. SUFPLT Secret Service  
11 from Richmond field office.

12 Q How long have you been with the Secret Service?

13 A For 15 years.

14 Q Are you the case agent assigned to this case?

15 A Yes I am.

16 Q How, have you reviewed the investigation  
17 -FRPBLGT yes.

18 Q What did your review of the investigation  
19 reveal?

20 A Revealed that on about January 15<sup>th</sup>, 2008 the  
21 defendant Mr. Forward was arrested by the Colonial  
22 Heights police department after leaving a target and  
23 subsequently going to an AT&T phone store a traffic  
24 stop made by the colonial height police department.  
25 During which time they discovered roughly 80 access

1 TKE SRAOEUSDZ in his vehicle as well as ten I.  
2 phones two play station 3 TKPWAPL systems, two play  
3 station P. S. P. game systems. After the discovery  
4 of all these items.

5 THE COURT: What is access device?

6 THE DEFENDANT: Credit card.

7 THE COURT: What was the ten what?

8 THE DEFENDANT: Were ten play station sorry ten  
9 new I phones.

10 THE COURT: I phones all right go ahead.

11 THE DEFENDANT: After the discovery of these  
12 items let detectives from colonial HAEUTS police  
13 department contacted the Richmond field office of  
14 the Secret Service.

15 BY MR. MOORE:

16 Q At the arrest did Mr. Forward make any  
17 statements?

18 A According to the case report from agent miles  
19 who was the original case agent Mr. Forward did not  
20 make any statements he asked to contact his uncle  
21 prior to giving any statements to agent miles.

22 Q Did he say anything about his purchasing of the  
23 I phones?

24 A I do not believe so, sir.

25 Q Did he make reference to a Mr. Garcia?

1 A I don't recall reading that in the case file.

2 Q Okay?

3 THE COURT: Well do you recall it?

4 MR. MOORE: If I had something to refresh his  
5 memory I would give it to him, Your Honor.

6 I mean I understand Mr. Forward said to Mr. PHA  
7 HREUPB in a that he gave him the name Robert Garcia  
8 to purchase the I. phones.

9 MR. COLLINS: Judge.

10 THE COURT: I said do you have any evidence? I  
11 due not give me one second.

12 THE COURT: You asked bunch of questions and  
13 HREP doesn't know what you are talk about.

14 MR. MOORE: Yes.

15 THE COURT: And I mean one of you hasn't done  
16 your homework I don't know who it is somebody is not  
17 or you shouldn't be asking these questions or  
18 something.

19 MR. MOORE: If I could find something to  
20 refresh his memory, Your Honor.

21 THE COURT: Do you know how to do this in the  
22 future?

23 MR. MOORE: Yes, Your Honor.

24 THE COURT: Now you do it you write out your  
25 question an then you have the immediately where it



1 is, at hand, if you need something to either impeach  
2 a witness or to refresh his recollection. You then  
3 tab that and you indicate it by cross reference to  
4 tab with a number or some code then wham when he  
5 answers a question in the way you are not expecting  
6 you get it out on hand it to him you don't have to  
7 root around through a file.

8 MR. MOORE: Yes, Your Honor I apologize.

9 THE COURT: You just prepare for these case  
10 just as well you do any other case. I.e. the TKE  
11 tension herring they need to be conducted with the  
12 same dispatch E TPWEURB EPB se and fairness as all  
13 other proceedings.

14 MR. MOORE: Yes, Your Honor.

15 BY MR. MOORE:

16 Q I believe I don't have that report, Your Honor?

17 THE COURT: All right.

18 BY MR. MOORE:

19 Q After the cards were pry TRA0EFD was TR any  
20 further analysis done TOFT cards?

21 A Wrist agent AL lien made man the cars through a  
22 credit card reader. And he determined that the gift  
23 cards had been re encoded with credit card  
24 information and on February 23<sup>rd</sup> of 2009.

25 THE COURT: I don't understand. You mentioned

1 gift cards cards up to now he had credit cards I  
2 phones play stations and something KAULTD a P. S. P.  
3 What is gift card got to do with anything?

4 THE DEFENDANT: The access device cards that we  
5 referred are were comprised of gift cards as well as  
6 credit cards.

7 THE COURT: TKPWEUFLT cards and credit cards.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Go ahead.

10 BY MR. MOORE:

11 Q (By The Court) Sorry I TPHOEU understand?

12 BY MR. MOORE:

13 Q The?

14 A The February 23<sup>rd</sup>, 2009 examination by the  
15 Secret Service forensic services division again, the  
16 gift cards had been re encoded with credit card  
17 information.

18 Q What were those gift cards what do they look  
19 like on the face?

20 A I have not seen the gift cards yet sir.

21 Q Have you looked at the report does it reflect  
22 what the gift cards were?

23 A I believe there were there was a PHAL Wal-Mart  
24 gift card a far get gift card and several others.

25 Q (target).

1 Q Does in forward have any prior arrests?

2 A Yes.

3 Q We will return to his arrest I believe in  
4 Douglas ville. Georgia. Can you tell us about let  
5 circumstances surrounding that arrest?

6 A That arrest occurred August 31 of 2007 and the  
7 information reported by the Douglass ville, Georgia,  
8 police department under case number 07-071-2753  
9 revealed that the defendant was arrested on a  
10 vehicle stop after leaving a toys are us driving a  
11 Mercedes PWEPBS the officers discovered a traces of  
12 marijuana within the vehicle. As well as 41 gift  
13 cards in Mr. Forward's position.

14 Q Was Mr. Forward with anyone?

15 A Yes he was with Georgia I can't early Jones and  
16 TPE licks PHA HREUPB in a.

17 Q Let's turn to the Hamilton New Jersey arrest of  
18 December 9 of 2007. Can you tell us about the  
19 condition the events surrounding that arrest?

20 A Mr. Forward again was arrested on a vehicle  
21 stop he was accompanied by again TPE election PHA  
22 HREUPB in a and Thomas Carol. During the arrest  
23 after leaving a far get and AT&T store they  
24 discovered? His vehicle again four I phones, 3 P.  
25 S. P.es one I pod touch, as well as several gift

1 cards wrapped in a rubber band.

2 Q After the indictment in this case did the  
3 Secret Service contact Mr. Ford to tell him about  
4 the indictment?

5 A Yes, sir.

6 A On January 13<sup>th</sup>, 2010 agent gag he a from the  
7 New York field office was contacted by Mr. Ford at  
8 which time agent gag he o advised Mr. Ford that  
9 there was an arrest warrant issued for him and that  
10 at that time Mr. Ford agreed to contact agent miles.

11 Q To your knowledge did Mr. Ford ever contact  
12 agent miles?

13 A Mr. Ford never contacted agent miles.

14 Q Returning back I guess to Mr. Forward's  
15 criminal history, has Mr. Ford committed any  
16 violation under court supervision or has he missed  
17 any The Court dates?

18 A Yes.

19 Q Can you tell us what has been chat he committed  
20 while under supervision?

21 A I.

22 Q I can be a little more?

23 A His last arrest was the one occurring on  
24 September 1<sup>st</sup>, 2010. Which he was arrested in New  
25 York with a during the search alluded 357 revolver

1 was found in the stolen vehicle he was driving.

2 Q Talking about the arrest of September 1<sup>st</sup>,  
3 2010; is that correct?

4 A Yes.

5 Q That took place in Brooklyn?

6 A Yes.

7 Q Okay?

8 THE COURT: Was he driving or not?

9 THE DEFENDANT: He was the driver of the  
10 vehicle. It was parked at the time.

11 BY MR. MOORE:

12 Q Do you recall why he was pulled over?

13 A The vehicle was do you believe parked.

14 Q Okay.

15 How did they find the firearm?

16 A The officer searched the vehicle.

17 Q Okay.

18 I guess leading up to his arrest that brought  
19 him to Virginia in New Jersey, in August of 2010,  
20 August 21<sup>st</sup> can you tell us about the facts  
21 surrounding that arrest?

22 A Again the defendant, Mr. Ford, was driving a  
23 lamb grow gee TPHRE.

24 THE COURT: Where what date was this?

25 THE DEFENDANT: This was August 21, 2010.

1 THE COURT: Driving a lamb PWRO gee knee.

2 THE DEFENDANT: Yes, sir, yes, Your Honor.

3 THE COURT: Where was this?

4 THE DEFENDANT: Lakewood township in New  
5 Jersey.

6 THE COURT: Okay.

7 THE DEFENDANT: Arrested by New Jersey state  
8 police when they observed him driving without a seat  
9 belt.

10 Q Did they find anything else after Mr. Ford was  
11 pulled over?

12 A There were five access device cards found in  
13 the vehicle.

14 Q Okay. Does Mr. Ford have any family ties to  
15 Richmond, Virginia?

16 A That I would have to review the notes for, sir.

17 Q Okay. Is Mr. Ford employed?

18 A To my knowledge he is unemployed.

19 Q (By The Court) Do we know whose car that the lamb  
20 PWRO gee knee was?

21 A It was rented out of California.

22 THE COURT: Rented where.

23 THE DEFENDANT: Out of California.

24 THE COURT: Who was the renter?

25 THE DEFENDANT: I don't have that information,

1 Your Honor.

2 BY MR. MOORE:

3 Q No further questions, Your Honor.

4 CROSS EXAMINATION

5 BY MR. COLLINS:

6 Q Agent hard man good morning sir?

7 THE COURT: Good morning.

8 Q Now, let's go back to January of 2008. If we  
9 could, please, sir in Colonial Heights.

10 A Yes, sir.

11 Q Now, Mr. Ford was not driving the vehicle that  
12 was the subject of the traffic stop, was he?

13 A He was not driving that vehicle. That was PHA  
14 HREUPB in a cyst TEUR's vehicle.

15 Q Isn't it true also sir that all of the access  
16 devices that you have referenced were found in the  
17 back of the car, isn't that true, sir?

18 A Aam TPHAOLT S sure.

19 Q Check the notes to confirm that, please sir?

20 A I am not sure of the location where the access  
21 devices were found.

22 Q Isn't it true, sir, that none of those were  
23 items were found on the person of Mr. Ford?

24 A I am not sure in that particular address in  
25 that particular arrest.

1 Q Sir isn't it also true that the I phones the  
2 psi the play stations, and other physical items  
3 which were found at the time of the stop of Mr. PHA  
4 HREUPB in a were located in the trunk of the  
5 vehicle?

6 A No, sir I believe there is video evidence of  
7 the defendant Mr. Ford in the stores in which those  
8 items were purchased.

9 Q My question to you was, where were those items  
10 found in the motor vehicle?

11 A Again I am not sure where those items were  
12 discovered.

13 Q Is the now true there is no evidence that the  
14 items which were found in the motor vehicles were  
15 purchased with the access devices that were located  
16 in the car in which he was the passenger?

17 A I don't have that information either.

18 Q Sir, you all conducted an in department  
19 analyses and you also fingerprinted the access  
20 device and other items which were found in that  
21 vehicle, didn't?

22 A The access devices were fingerprinted were test  
23 tested for fingerprints.

24 Q None of the fingerprints that you all were able  
25 to lift from those access cards matched those of



1 Mr. Ford?

2 A According to the report they weren't able too  
3 lift, to verify the prints taken from those cards.

4 Q To the extent that fingerprints were lift none  
5 of these were matched with Mr. Ford, were they?

6 A Thanks, sir.

7 Q If we could get back to Douglass ville,  
8 TKPWARBGS on August of 2007. All those matters have  
9 been resolved have they not?

10 THE COURT: What has been revolved?

11 Q The arrest that he referenced from Douglass  
12 ville, Georgia. In 2007.

13 THE COURT: I believe he was charged with a  
14 traffic AUP fence wasn't he.

15 MR. COLLINS: Yes, sir.

16 THE COURT: Wasn't any charge on the credit  
17 card?

18 MR. MOORE: That's correct I just want to make  
19 sure they will they were all railway solved since he  
20 brought them up on direct KPAEUF.

21 THE COURT: Well there wasn't any resolution of  
22 the credit cards?

23 MR. MOORE: No, sir that's correct. Only  
24 reference whatever he was charged with there.

25 THE COURT: The charge okay I got you.

1           THE DEFENDANT: The arrest were brought up  
2 merely to determine more of a pattern STPHRAO.

3       Q     Well sir again Mr. PHA HREUPB in a and  
4 Mr. Jones were with him, is that not correct?

5       A     That's correct.

6       Q     Okay. Now, as far as your records go other  
7 than not contacting agent PHAOEULTS down here in  
8 extra, (miles) Mr. Ford did contact agent gag Leo  
9 and cooperated with him in New York did he not?

10      A     He contacted him and indicated that he was  
11 going to get in touch with agent miles the case  
12 agent at the time and turned himself in subsequent  
13 attempts by agent miles to contact defendant Ford  
14 negative results.

15      Q     He anybody STHAEUTD everything up in New York,  
16 is that that is not correct the contacting of the  
17 Secret Service agent?

18      A     The contacting AOFT Secret Service agent was  
19 based upon the Secret Service agent attempting to  
20 contact Ford through relatives and different  
21 associates in New York.

22      Q     My question is that he in turn did contact  
23 agent KAG gee toly and AP kite RA other than  
24 contacting the agent in Virginia?

25      A     After being pursued by agent gag Leo.

1 Q If we could get back to the arrest that was  
2 made of him in September of 2010. Is it not true  
3 sir that those charges in Brooklyn have been  
4 dropped?

5 A The charges on September first 2010?

6 Q Yes, sir that I have been dropped haven't they?

7 A I would have to defer to the counsel on that.  
8 I am unsure whether that I have been dropped or not.

9 MR. MOORE: Your Honor, I understand the  
10 charges are still pending. New York has a rule you  
11 have to indict within 72 hours have taken custody of  
12 the defendant and they did not indict but it its my  
13 understanding that they are still the SKHARGS are  
14 still pending still reviewing the indictment.  
15 STKPWHRAO well as of this stage though their THOEUFB  
16 dropped if they didn't charge him in 72 hours.  
17 Correct? This is the interested of September.

18 MR. MOORE: He was released on bond. They have  
19 to as I said they have to indict within 72 hours.  
20 They are still reviewing possible indictments.

21 BY MR. COLLINS:

22 Q That is all I V. thank you. Of this agent?

23 THE COURT: All right.

24 MR. MOORE:

25 REDIRECT EXAMINATION

1 BY MR. MOORE:

2 Q I have no further questions and the government  
3 rests on its evidence.

4 THE COURT: What evidence did you present?

5 MR. MOORE: Just the testimony of Mr. Hard man.

6 THE COURT: Okay.

7 MR. COLLINS: Judge at this stage I submit  
8 there have not been any evidence to change the facts  
9 or SEURBGSDZ that were before judge Lauck when  
10 Mr. Ford appeared before judge Lauck in this case  
11 and I ask The Court to reinstate those terms and  
12 conditions of the order that was issued by judge  
13 Lauck.

14 THE COURT: All right.

15 MR. MOORE: Your Honor we are here today on  
16 review of magistrate judge in the Eastern District  
17 of Virginia's order of release. You stayed his  
18 order pending this re STRAOU. If you find there is  
19 probable cause to believe the TKEUFTS committed a  
20 federal state or HRORBG KAL crime while on release  
21 or by a clearing and convincing evidence that the  
22 defendant has violated any other condition of  
23 release we can look towards the 342 G factors.

24 THE COURT: Intent to be putting on here an  
25 explanation of the strength of your case?

1 MR. MOORE: Your Honor, one of the 342 G.  
2 factors is weight of the evidence EUFRPBLTS what did  
3 you prove other than he has some credit cards with  
4 him?

5 MR. MOORE: There is, Your Honor, there is  
6 sufficient WHRAEUFT?

7 THE COURT: In the I heard was a bunch of I  
8 don't know and I don't have that information and I  
9 haven't done that and I haven't done this.

10 MR. MOORE: Yes, Your Honor.

11 THE COURT: He got arrested with all of test  
12 TKE STREUSZ at various times. What kind of evidence  
13 is that? That support the charge you are supposed  
14 to show that you have got some kind of evidence to  
15 support the charge against him.

16 MR. MOORE: Your Honor,.

17 THE COURT: Do you have fly I have had that he  
18 used the credit card device?

19 MR. MOORE: Yes, Your Honor.

20 THE COURT: Did you PWRE sent it this morning?

21 MR. COLLINS:

22 MR. MOORE: Only in summary.

23 THE COURT: It was so summary I didn't  
24 understand it.

25 MR. MOORE: I understand, Your Honor.

1 THE COURT: So how can I KHRUD that you have  
2 got a case even?

3 MR. MOORE: Your Honor, the indictment was --  
4 the indictment is not under review it is -- there  
5 is.

6 THE COURT: That isn't the point. One of the  
7 factors on whether he is released it strength of  
8 your case you have got a lose SER on a week case I  
9 take that STPWO account and TK in deciding whether  
10 it is appropriate to detain him and what you did is  
11 come in here and HO human it.

12 MR. MOORE: Yes, Your Honor.

13 THE COURT: Yes you did.

14 THE COURT: Why should I confine in man based  
15 on your decision to come in here and do a little  
16 song and dance routine that didn't prove anything  
17 and that other than he had credit cards?

18 MR. MOORE: If we go back to the AO original  
19 conditions Mr. Ford failed to meet those conditions.  
20 The WHRAEULT.

21 THE COURT: We are not talking about that that  
22 you canning about the weight of the evidence STPHRAO  
23 Yes, Your Honor. There would be -- if -- there is  
24 ample evidence to suggest that Mr. Ford did commit  
25 these crimes?

1 THE COURT: What evidence do you have that is  
2 ample?

3 THE COURT: What the ample?

4 MR. MOORE: Video of TPWRAEUPL photos of him in  
5 the A. T. F. STOERLS in the tar TKWET STPOERS using  
6 these gift cards. I tried to keep the detention  
7 brief or the agent.

8 THE COURT: Kept it so brief you didn't do  
9 anything.

10 THE COURT: He didn't know any way he stayed I  
11 understand there are videos apparently STHAPBT even  
12 looked at them.

13 MR. MOORE: That's correct.

14 THE COURT: You ever somebody so busy they  
15 can't get a case together for URS and understand  
16 what it is?

17 MR. MOORE: Your Honor.

18 MR. MOORE: Your Honor he is new agent to the  
19 case the investigating KAGT.

20 THE COURT: Where is other investigating agent?

21 MR. MOORE: I believe agent ago transferred to  
22 Washington, D. C., Judge.

23 THE COURT: How TPHAR is Washington from here?

24 MR. MOORE: It is only 95 miles Your Honor.

25 THE COURT: Get himself in a carnd get down

1 here don't you rely on somebody that doesn't know  
2 anything about the case.

3 MR. MOORE: Yes, Your Honor.

4 THE COURT: What do you think this is? We  
5 don't just take I am not just going to take a -- the  
6 word of somebody WHROP doesn't know anything. As  
7 evidencing that there is proof that he committed the  
8 crime.

9 MR. MOORE: I understand, Your Honor. And at  
10 trial the agent.

11 THE COURT: Not talking about at trial I want  
12 to you do it right. You get the agent down here and  
13 let's hear it right. I am concerned about this  
14 defendant. And about releasing this defendant  
15 because of a number of things. What has happened  
16 here it United States has come in herewith a STHREUP  
17 shod operation to try to show that there is some  
18 kind of case. I couldn't even understand what the  
19 case is based on what was told me this morning.

20 MR. MOORE: Yes, Your Honor.

21 THE COURT: I have got the indictment here so I  
22 know that certainly you are bound to have some  
23 evidence of what this is about.

24 MR. MOORE: Yes, Your Honor EUFRPBLTS but the  
25 didn't isn't the evidence here.



1 MR. MOORE: Yes, Your Honor.

2 THE COURT: Okay.

3 You tell the agent to be here can you been here  
4 on Monday afternoon Mr. Barely?

5 MR. COLLINS: No, sir I can tell you now not  
6 Monday.

7 THE COURT: Or Monday morning.

8 MR. COLLINS: I have a hearing that is set and  
9 has been set for couple months now in Henrico  
10 circuit court during that morning judge I am going  
11 to be in Henrico circuit court also I TPHOEU Monday  
12 is out.

13 MR. COLLINS: I can tell you that Wednesday is  
14 going to be out, totally for me because I have been  
15 attending aunt funeral North Carolina leaving late  
16 either Tuesday evening or very early Wednesday  
17 morning for that.

18 THE COURT: How about Thursday?

19 MR. COLLINS: I am available on the morning of  
20 Thursday, yes, sir.

21 THE COURT: Thursday morning at 10:00 o'clock.  
22 I don't care what that agent is doing he is coming  
23 here?

24 MR. MOORE: Yes, Your Honor.

25 THE COURT: Our your case I am not going to pay

1 fly attention to you. Let me tell you something  
2 when you bring a charge against somebody in this  
3 court you better be prepared to stand and deliver  
4 and you don't just come in here and HO human it.  
5 That is not right.

6 MR. MOORE: Yes, Your Honor EUFRPBLT sit  
7 insurance are not treated that WAEUFPLT.

8 MR. MOORE: Yes, Your Honor.

9 MR. COLLINS: Your Honor, in the meantime can I  
10 ask TKOURLT his aunt who resides here in Virginia  
11 and Herndon is available to serve as third party  
12 custodian for him pending that I would ask The Court  
13 to release him to her custody and I could bring her  
14 name, forward her name is begin knee SRE TKPWEUB  
15 son. She lives in the Eastern District of extra  
16 sand she and her daughter are here they have come  
17 down from Herndon she I proffer to The Court their  
18 more than happy to serve as third party just  
19 custodian both law abiding sits EPBLS no conviction  
20 for anything.

21 THE COURT: There hasn't been any investigation  
22 by the probation officer on that has there?

23 MR. MOORE: No, Your Honor.

24 PROBATION OFFICER: No, Your Honor.

25 THE COURT: All right. Well, I have to say

1     this. Mr. Ford -- the magistrate judge found that  
2     there was sufficient grounds strength of the opinion  
3     to impose certain kinds of conditions. Strength of  
4     the evidence.

5             But, we have since had and frankly this is  
6     SREPL SORS distressing things that I see here in the  
7     record about him driving lamb PWRO gee knee rented  
8     out of where was it do you intend to even find out  
9     who the many lamb PWRO begin TPHRE was rented to?

10            MR. MOORE: Yes, Your Honor.

11            THE COURT: You going to do a loot of homework  
12     between now and then ERPBT you?

13            MR. MOORE: Yes, sir.

14            THE COURT: You better due it right that is the  
15     has chance you have got.

16            MR. MOORE: Yes, Your Honor.

17            THE COURT: What is the status of these KARGS  
18     up in New York?

19            MR. MOORE: Your Honor, because Mr. Ford is  
20     outside the jurisdiction of New York they have to  
21     not writ him over but they have to get jurisdiction  
22     over him they just can't I was talking to the A. D.  
23     I. yesterday there is a process to go through before  
24     they can indict him.

25            THE COURT: Just that is TKO\*US double speak.

1 MR. MOORE: Not current lip under indictment.  
2 They are trying to indict him.

3 THE COURT: What do they know about what  
4 evidence do they have about whether he was driving a  
5 stolen car apparently.

6 MR. MOORE: Yes, Your Honor.

7 THE COURT: Stolen car had a 357 in it TPHAO  
8 Yes, Your Honor EUFRPBLT what evidence will you put  
9 on about that?

10 THE COURT: I but you will find some won't you  
11 TPHAO yes -RS Your Honor.

12 THE COURT: All right. If you want The Court  
13 to exercise its power you better take serious your  
14 responsibility to prove things to TKOURLT.

15 MR. MOORE: Yes, Your Honor.

16 THE COURT: I don't think it is in the interest  
17 of the citizen try to release the defendant pending  
18 this further TK-RPL nation. I don't even have  
19 TPHAPB examination PRAP perhaps the probation office  
20 can look into those had December would be W-R own of  
21 them would be a proper third party custodian and  
22 have is a that information STRAEUBL for me on  
23 Thursday.

24 MR. COLLINS: Yes, sir.

25 THE COURT: I will consider it at that time.

1 MR. COLLINS: Yes, sir.

2 MR. MOORE: Yes, Your Honor.

3 THE COURT: In addition T that, I want the PWRE  
4 tile services office to do its own examination I  
5 guess this is the done by our offices hire are.

6 MR. COLLINS: Yes, sir it was.

7 THE COURT: Because pretrial service's office  
8 concluded there were flow conditions of release I  
9 believe the last time. Okay. All right. Now, Mr.  
10 Moore, you know bet T TER than that I don't ever  
11 want there happening.

12 MR. MOORE TWO: We will be having further  
13 discussions on what happened today Your Honor rest  
14 assured.

15 THE COURT: Doesn't do any good to bring  
16 witnesses in here who give you I don't knows?

17 MR. MOORE: Yes, Your Honor.

18 THE COURT: That is asking a question you are  
19 not proving anything and wasted Mr. Barely time what  
20 I ought to do is make you pay for his fees that I am  
21 going to have to pay. Because you weren't ready.  
22 All right. We will be in see you on Thursday  
23 Mr. Barely.

24 MR. COLLINS: Thank you sir.

25 THE COURT: We will be in recess:

1 HEARING ADJOURNED. THE FOREGOING IS A TRUE AND

2 CORRECT TRANSCRIPT.

3 GILBERT FRANK HALASZ, RMR

4 OFFICIAL COURT REPORTER

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